

## **REMARKS**

Claims 1-3, 5-12, and 14-19 are pending in the application. Claims 1, 10, and 19 have been amended hereby, and are in independent form. Favorable reconsideration is requested.

Reconsideration is respectfully requested of the rejection of Claims 1, 10, and 19 under 35 U.S.C. §103(a), as being obvious over U.S. Patent Publication No. 2003/0193898 (“Wong”) in view of U.S. Patent No. 6,658,479 (“Zaumen”).

Wong, as best understood, relates to a method for selecting two maximally disjoint shortest paths between a source node and a destination node in a network. Paragraphs [0103]-[0104] and [0164]-[0182], cited in the Office Action in the paragraph bridging pages 2 and 3, fail to teach or suggest “a line condition that includes information about the presence or absence of a failure in the communication line,” as conceded in the Office Action in lines 4-6 of page 3. Thus, Wong fails to teach or suggest “a communication cost calculating unit that determines a type of failure from among a plurality of types of failures and calculates a communication cost of each route, based on the line condition information in the route and the determined type of failure,” as recited in amended independent Claims 1, 10, and 19.

The Office Action cites Zaumer for these features.

Zaumer, as best understood, relates to a method for determining a cost of routing data from a current node to a successor node over a communication channel. It is respectfully submitted that the combination of Wong and Zaumer fails to teach or suggest “a communication cost calculating unit that determines a type of failure from among a plurality of types of failures and calculates a communication cost of each route, based on the line condition information in the route and the determined type of failure.” At best, Zaumer is computing a processing node cost for processing data at the current node, where a ratio of data input rates to data output rates are

combined to formulate a link cost for the current node, or the cost of routing data through that node.

Accordingly, it is respectfully submitted that amended independent Claims 1, 10, and 19, and the claims depending therefrom, are patentably distinct over Wong in view of Zaumen.

### **CONCLUSION**

In view of the amendments and remarks set forth above, this application is believed to be in condition for allowance which action is respectfully requested. Should the Examiner consider this application not to be in condition for allowance, the Examiner is invited to telephone the undersigned attorney at the number listed below prior to issuing a further action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,

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